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Worldwide Report

LAW OF THE SEA

No. 177



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CONTENTS

NEAR EAST AND NORTH AFRICA

ISRAEL

Briefs

Extension of Territorial Waters

1

WEST EUROPE

NORWAY

Coast Guard Mobilizing New Equipment To Guard Fisheries

(Gerda Vislie; AFTENPOSTEN, 3 Nov 81)

2

Coast Guard Enforcement of Fisheries Limits Strengthened

(Gerda Vislie; AFTENPOSTEN, 5 Nov 81)

5

Briefs

Cod Quota Over-Fished

7

TURKEY

Arayis Urges Firm Stand on Aegean Rights

(ARAYIS, 3 Oct 81)

8

Academic Reviews Current Legal Status of Aegean

(Tuncer Guvenc; CUMHURIYET, 15 Oct 81)

12

Recent Aegean Resolutions Exacerbate Problems With Greece

(CUMHURIYET, 22 Sep 81)

18

BRIEFS

EXTENSION OF TERRITORIAL WATERS--The dispute between Libya and the United States regarding the boundaries of Libya's territorial waters, which culminated in the shooting down of two Libyan jets over the Gulf of Sidra, will not influence Israel's intention to expand its own territorial waters. This information was released to our correspondent by government sources in Jerusalem. According to the sources, the suggestion of navy commander General Ze'ev Almog, to expand Israel's territorial waters from 6 to 12 miles has already been debated for a year. The navy commander thinks that this step will help to drive Soviet spy ships further away from Israeli shores. The Soviet spy ships sometimes come within 7 or 8 miles of the Israeli shore, without violating international law, thus causing a security problem. Taking into account that Libya demands a territorial water area of 90 miles, and that the air battle took place within 60 miles of the Libyan shore, Israel's demand, according to those sources, is not without justification. Those sources cite the compromise which is being worked out since 1973 in the international maritime committee, according to which the 12 miles close to the shore will be recognized as territorial waters, and the next 12 miles as an adjacent territory. The area within 200 miles from the shore will be recognized as state territory only as far as natural resources are concerned. There are judicial and political circles in Jerusalem who have a different approach to the problem from that of the military, and think that a Knesset decision on that issue can only harm Israel. According to these sources, Israel should strive to get the international navigation lines closer to its shores, thus putting itself on the international navigation map. It should be noted that the legal, international and military aspects of the issue were discussed recently in a conference on maritime law which took place in Jerusalem. [Text] [Tel Aviv BAMAHAHE in Hebrew 26 Aug 81 p 4]

9433

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COAST GUARD MOBILIZING NEW EQUIPMENT TO GUARD FISHERIES

Oslo AFTENPOSTEN in Norwegian 3 Nov 81 p 60

[Article by Gerda Vislie: "Coast Guard Steps Up Pace Against Unlawful Fishing"]

[Text] The Norwegian Coast Guard has so far this year brought in 40 vessels for unlawful fishing in the Norwegian economic zone. In addition the coast guard gave about 250 written warnings for violations in the zone, and about 1400 inspections were carried out. These numbers are more than double the totals for all of 1980. The rapidly increasing number of violations has alarmed Norwegian authorities, and Public Prosecutor Magnar Flornes has issued a directive to all police stations along the coast that the reaction to unlawful fishing in Norwegian waters will be stepped up significantly. Flornes told AFTENPOSTEN that further increases may take place, and the risk of apprehension must be high and the punishment so strict that it would be expensive to speculate. Coast Guard Inspector Commander Nils Tiltnes told AFTENPOSTEN that not all unlawful acts are entirely deliberate. The size of the fines is obviously not scary enough to overcome the violations. The number of inspections are divided fairly well between the zones off north and south Norway, but all the vessels brought in so far this year were caught in the southern area. This may be due to the regulations in the North Sea being more complicated than the regulations in the northern zone, according to Commander Tiltnes.

One moment the boarding boat hovered between the sea and the sky, then it dropped between waves meters high. Then it rushed ahead and was thrown from wave to wave--dramatically illuminated by strong searchlights in the black North Sea night. The boarding boat was enroute from the coast guard ship "Volstad jr." to a Scottish fishing boat INS 121 "Solan" for inspection. The place was Sleipnefeltet--120 nautical miles west of Stavanger.

"That Scottish boat is so low that we do not need to use a ladder to board it," said Hans Fagerli, the captain of "Volstad jr." "We simply jump over to the Scottish boat when the boarding boat is on a wave top at the height of the railing

on the fishing boat!" The job is purely routine for "Volstad jr." Inspection of fishing vessels takes place continuously around the clock. Together with two other ships, plus an extra during winter months, "Volstad jr." patrols 300,000 square kilometers of sea. Aboard the boarding boat are Captain Fagerli and his executive officer Arvid Nilsen.

The inspection of INS 121 "Solan" started with a rather headlong boarding, a maneuver which could only work because the crew was lined up along the rail and received them. All the men seemed good-natured and obliging--perhaps a bit too good-natured. A clear conscience would possibly produce irritation over an inspection so late at night.

The vessel had received notification in advance that the coast guard ship intended to board, but the time was too short for an attempt to hide illegal equipment, and the inspection came rather suddenly to the Scottish vessel. The two captains shook hands and exchanged pleasantries about the weather and wind--topics of conversation which were very close to the swaying deck in the moderate gale. The boarding boat remained close alongside, while the "Volstad jr." circled a bit farther out at slow speed--as though keeping watch on its prey.

Captain Fagerli entered the cargo hold to measure the catch, while Nilsen remained on deck to inspect the fishing gear which was hauled on board, both to see its contents and to check that the size of the mesh in the nets had not been tampered with--something which is possible with certain equipment in the net. Nilsen measured the mesh size, and it was clear that in this respect "Solan" had committed no offense. Cheating on mesh size is one of the violations which are not treated with kid gloves under Norwegian law. Thereafter all other fishing gear on deck was measured and checked. So far everything was in order, but then the log, fishing journal and license papers were checked. This took place on the bridge in the lee of the wind and rain. Often the information in the papers is checked with the data bank and the Ministry of Fisheries.

"Here is something that is not correct." Captain Fagerli compared the papers and the books one more time, taking his time, checking and adding again. "No, unfortunately, the information does not agree, more fish have been caught than the amount shown in the log." A warning in triplicate was written out on the spot, and the captain of the "Solar" signed. If everything had been in order the papers would have been stamped and signed by the coast guard. If the offense had been a major one, for example too small mesh size, too much catch in comparison with the records, etc., the vessel would have been seized and one of the crew from "Volstad jr." would have accompanied it to the nearest police station. There the vessel, catch and crew would have been turned over to Norwegian authorities. The coast guard ship would have followed it to port, and then gone back to its mission.

But "Solan" only received a written warning, and when that was finished, further pleasantries and handshakes were exchanged. The visitors made a quick retreat with a--fortunately--well-calculated leap from the fishing vessel into the boarding boat at the second when the two craft lay somewhat even...

Searchlights from "Volstad jr." did not leave the boarding boat for an instant during its return trip. We were caught by the light and rose and fell with it on the rough sea. And still the "moderate gale" and "high seas" are too little to expect in these waters at this time of the year. "Difficulties begin with the storms

begin to howl in the North Sea--and we can expect them at any time," said Captain Fagerli. "But the worse the weather is, the fewer fishing boats go out. In January this year the weather was so bad that we only inspected 10 boats, while the number in May was 138.

Oil activity in the North Sea also causes much work for the coast guard ships. Objects from the oil platforms and drilling rigs tear off and float around in the sea. Both a marker buoy from Phillips and a huge mooring buoy were reported floating in the vicinity of "Volstad jr." for a couple of days. Only the marker buoy was found and hoisted aboard, with meters of thick chain dragging from it...

9287

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COAST GUARD ENFORCEMENT OF FISHERIES LIMITS STRENGTHENED

Oslo AFTENPOSTEN in Norwegian 5 Nov 81 p 60

[Article by Gerda Vislie: "Coast Guard Will Give Fines That Hurt"]

[Text] Fines must sting so it hurts. Until the fines are increased, owners and captains can calculate that unlawful fishing will only occasionally be discovered. The trawlers can promptly catch again the amount which they lose and more. There has been a considerable improvement lately, but in the coast guard we all agree with Public Prosecutor Magnar Florne's directive that the reaction to unlawful fishing must be stepped up considerably.

That is what the squadron commander, Captain Tor Magnussen of Haakonsvern told AFTENPOSTEN. Magnussen is commander of the Coast Guard Squadron South, the ships of which patrol the North Sea to crack down on trawlers which are fishing illegally. The squadron consists of three ships in the summer and four in the winter: "Volstad jr." "Lafjord" and "Nordsjobas" and in the winter also a hydrographic vessel. "The rules for fishing in the Norwegian economic zone are entirely clear, and if foreigners want to fish in the zone they must follow the applicable laws, the same as Norwegians," said Magnussen.

"Do only foreigners fish unlawfully?"

"No, Norwegian trawlers also commit violations. They can, among other things, use illegal equipment. But we crack down first on foreigners, because the Norwegian trawlers can be checked when they come into port. We are aware that much can be hidden on the way in to the coast, but sooner or later we believe that most violations will be disclosed."

"It must be difficult to conduct an effective patrol over 300,000 square kilometers of sea with only three or four coast guard ships?"

"The great contribution of the coast guard ships has been that the number of inspections has more than doubled since last year, and so far this year fines and seizures of catches have come to a total of 3.2 million kroner."

"The Danes feel very mistreated by the coast guard, and are threatening EC duties on Norwegian fish."

"I can only describe the Danes' assertions against the coast guard as lies," said Magnussen. "They have claimed that the coast guard is acting maliciously against Danish fishing vessels in Norwegian waters, and said that if we want to 'take' a fishing vessel we always find an excuse to do so. But we are doing nothing other than what we are required to do by Norwegian law, and I am surprised that customs restrictions against Norway are being threatened by responsible quarters in the EC simply because the Norwegian Coast Guard sees to it that the applicable regulations are carried out."

"Can the coast guard, with its resources, adequately contribute to exposing unlawful fishing?"

"No, we have too few craft here in the south to conduct adequate patrolling. At the moment we are getting too little help from Orion aircraft from Andoya, and I think we should make greater use of small aircraft in the North Sea as compensation for the hours when we are not helped by the Orions. We have small aircraft here at Haakonsvern which can be called out on short notice. Providing two crews of military personnel for each coast guard vessel is also a condition which could give 100 percent utilization of them. As it is now, the law on working conditions prevents such utilization."

"Does the coast guard have difficulty in stopping trawlers and coming aboard to inspect them?"

"It is very seldom that we have to resort to drastic tactics. But there have been instances when we have fired warning shots with canons to get a boat to stop. And it has also happened that crewmen had to be equipped with weapons. That was to show that we were serious."

Captain Magnussen said that coast guard craft are half military, meaning that they are leased by the navy from private owners, and they have both military and civilian crews. The civilian crewmen take care of the maintenance, stand watches on the bridge, and are in charge of the food.

"Why is fishery supervision under military command?"

"It has always been that way," said Magnussen. "Previously the supervision was conducted by regular naval ships, but the coast guard took it over in its present form when the Norwegian economic zone was set up in 1977. Then the service was named the Norwegian Coast Guard."

9287

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BRIEFS

COD QUOTA OVER-FISHED—Norwegian fishing of Norwegian-Arctic cod exceeded the quota by a significantly greater amount than previously assumed, according to FINNMARKSPOSTEN. So far 280,000 tons of Norwegian-Arctic cod have been landed in Norway. According to this figure, if the good fishing continues throughout the year the total could reach 370,000 tons. Norway and the Soviet Union both have a quota of 170,000 tons of cod per year. By 1 September the Soviet Union had only fished 67,000 tons of its quota. Ocean scientist Arvid Hylen told FINNMARKSPOSTEN that conditions indicating that the stocks of cod are too low caused the setting of this year's quota. It is therefore too early to say whether over-fishing by Norway will have anything to do with setting the quota for next year. According to FINNMARKSPOSTEN the Norwegian Fishermen's Association will experience few objections to its request for an increase of the year's herring quota from 100,000 to 150,000 hectoliters. The application is in the Office of the Director of Fisheries for comment, and the Ministry of Fisheries will decide the matter in a few days. The market situation for Norwegian herring is difficult. The price was reduced twice in the fall to make it possible to sell the herring which was caught. [Text] [Oslo AFTENPOSTEN in Norwegian 31 Oct 81 p 12] 9287

CSO: 5200/2008

ARAYIS URGES FIRM STAND ON AEGEAN RIGHTS

Ankara ARAYIS in Turkish 3 Oct 81 pp 5-6

[Text] When a French deputy, who probably has never seen Turkey, submitted her report to the European parliament, the Turkish people resumed asking a question that had been tabled for awhile, "Does Turkey have a national policy on the Aegean?"

Before ascertaining whether or not Turkey possesses such a policy, the following can be said. "Greece does have a national policy on the Aegean. Its goal has been determined, and it is accomplishing this goal step by step. A new development, which was approved by the European parliament, which asserts that Greece is an archipelagic nation, and which recognizes its right to increase its territorial waters to 12 miles, in fact, is a new level reached by the Aegean policy that was planned and put into action long ago."

The logic behind this policy, which Greece began to apply immediately following the great Anatolian rout that comes under the title, "catastrophe," in its recent history, can be summarized with the sentence, "Make the Aegean an inland sea bit by bit." In order to understand this diplomatic victory won by Greece in the European parliament, one must cast an eye at the titles of chapters in its recent history. Doing so, one can clearly see the steps Greece has taken to increase slowly its sovereignty in the Aegean Sea and the airspace over the Aegean and to bring Turkey to a state at which it is a nation "isolated" from the Aegean Sea.

The years following this comprised a period during which Turkey was totally disinterested in foreign politics and even tossed aside opportunities that came into its hands. In 1952, it was sought to give Turkey FIR [Flight Information Region] responsibility in the Aegean Sea within the framework of ICAO [International Civil Aeronautics Organization] rules, but Turkish administrators, for some reason or other, avoided accepting this responsibility. Athens, however, jumped at the chance presented to it and gained another important bunker. Also during this period, Greece, at every turn, used infrastructural investments within NATO and even technical issues such as the FIR as means to increase its sovereignty in the Aegean Sea.

During this time, both Turkey's lack of interest in foreign politics and its lack of foresight were to give Greece the chance to create an active de facto situation in the Aegean within the framework of NATO. In fact, the line separating areas of command within the NATO structure, which was determined as a line drawn from the north to the south in the center of the Aegean Sea, was broadened, de facto, in Greece's favor as far as Turkey's territorial waters in the 1960's. There is no doubt that such a practice, which was not supported by a NATO decision, caused Greece's de facto control over the Aegean Sea to increase.

During the days in which it was engaged in talks regarding its return to NATO's military wing, it was necessary to look at the lack of foresight in Turkish foreign policy in the 1960's as being behind Greece's desire to revive the de facto situation in the Aegean. Greece was not content with only such de facto situations created within NATO's structure. It closed to international flights the 3,000-square-mile airspace over Lemnos Island, which is situated at the entrance to the Dardanelles. In the meantime, it began to issue permits to foreign firms and explore for oil on the Aegean's continental shelf, which is a natural extension of Anatolia. It also, in the 1960's and 1970's began to arm extensively the islands at the foot of Anatolia that were to be kept disarmed in accordance with the 1923 Lausanne and 1947 Paris peace agreements.

The Turkish governments were only able to overcome indifference in 1974. When, on one hand, stating that Turkey possesses inalienable national rights to the Aegean continental shelf, it, at the same time, took various concrete steps to demonstrate its resolve.

During the Cyprus peace action, the then-current Turkish government, which viewed the de facto NATO command area demarcation line created by both the FIR and Greece with absolutely no support as inadequate from the standpoint of Turkey's security, proclaimed in NOTAM [Notice to Airmen] No 714 it necessary for the security line to again pass through the center of the Aegean Sea. Coming to the United Nations' Law of the Sea Conference in the latter half of the 1970's, the impasse between Turkey and Greece on the issue of the Aegean appeared to be insurmountable. One of the items Greece, who employed every type of diplomatic maneuver during this conference, wished to have supported by a decision was recognition of Greece as an "archipelagic" nation. If this hypothesis were adopted, the Aegean would truly be an inland sea belonging to Greece.

Greece, which was unable to get this thesis approved at the Law of the Sea Conference, then took the battle to the arena of the EEC once it became a full member. With a report prepared by French member of parliament, Mr. Fourcade, it sought to gain the support of the EEC on the Aegean issue and solidify Greek sovereignty in the Aegean. The report accepts Greece as an "archipelagic" nation, recognizes a continental shelf of 12 miles, and stresses that all islands possess a continental shelf. In this way, it seeks to close off the Aegean Sea to Turkey, which has, at the very least, as much right to the Aegean as Greece.

Turkish administrations have many times stated that Greece's increasing its territorial waters to 12 miles in the Aegean would be looked upon as declaration of "war." While such a situation exists, having some of our western friends participate in this development does nothing other increase the difficulty in finding a solution to the Aegean problem. Several western nations, bearing in mind the upcoming general elections in Greece, claim that the election results in Greece could prevent that country from returning to NATO's military wing and have asked Turkey to be more understanding on this issue. In fact, it has become the fashion in international politics in recent years to apply the method of a link between two completely separate topics, and the establishment of a tie between this type of understanding behavior and foreign aid to be given to Turkey has been noted in articles in the press.

Turkey, trusting a bit in the words of its western friends, has made several "well-intentioned" gestures in the Aegean in the past 2 years. First, it rescinded NOTAM No 714. Then, it eased Greece's return to the NATO military wing by not making an issue about its security. The question about area of command was omitted. In response to these important, well-intentioned gestures, the gestures made by Greece were insignificant, trifling, and a mere drop in the bucket. It is impossible to characterize them as being well-intentioned, because Greece has not eliminated its de facto practices in the Aegean that violate international law. To the contrary, Greece this time proceeded to apply the aforementioned policy within the EEC.

In the meantime, Papandreou claims that the "Aegean is a Greek inland sea" and Prime Minister Rallis says that "the question will be taken before the Hague Court of Justice."

When looking at Turkey's side of the Aegean problem, it is useful to recall various developments that took place in the past.

In 1978, in talks between secretaries general that were begun following the meeting between Greek Prime Minister Karamanlis and current Prime Minister Bulent Ecevit, a distance was covered that cannot be disparaged from the standpoint of defining the problem and closing the gap between each side's views. It is necessary that the point reached in 1978 not be retraced in today's handling of the Aegean issue.

Talks between the secretaries general of the two nations continue. However, in recent times, statements made following a secretaries general meeting or a ministers of foreign affairs meeting attract attention by their failure to touch on the subject of the Aegean. This situation gives the impression that the Aegean problem has either been shelved on the agenda or, at the least, is not being treated with the importance or priority it requires. We do not know which is true, but one thing we do know is that the mere creation of such an impression is not good for Turkey.

Even the statement regarding the Turkmen-Mitsotakis talks held following the recent decision in the European parliament is able to create the misconception that the topic was not mentioned and that Turkey no longer worries much about this issue. It would not be an exaggeration at all to say that such a misconception will be able to influence negatively Turkey's position in future talks.

Before everything else, it is necessary to state clearly that the question of the Aegean's being a Greek inland sea is not merely a problem of the Aegean, is not a legal issue between Turkey and Greece alone. The Aegean Sea is part of the political balance established in the region by the Lausanne Agreement. It is necessary to deal with the Aegean question within this political framework. Destroying, in Greece's favor and against Turkey, this political balance established on the issues of territorial waters, the continental shelf, airspace, disarming the islands, and other similar topics definitely cannot be allowed from Turkey's point of view. It is necessary that everyone, both friend and foe, know this. For this reason, a solution to the Aegean problem must be sought, keeping in mind a reciprocal balance of rights and interests between Turkey and Greece.

The balance established in the Aegean is part of the broader political balance in the area that includes the Balkans, the Black Sea, and the eastern Mediterranean. Our western friends in the EEC, in other international forums, and in bilateral contacts they make, must avoid being used as tools in these types of developments that could negatively affect relations between Turkey and Greece. They must take care not to destroy the political balance that goes beyond the boundaries of the Aegean in this corner of the world, that includes the Balkans, the Black Sea, and the eastern Mediterranean.

In addition to all this, this type of behavior of our western friends strengthens further in the minds of the Turkish people the conviction that Greece "is a child protected by the West." The gradual strengthening of such an idea can also have a negative effect on relations between Turkey and western nations.

In particular, thoughts that a result can be obtained by increasing the pressure on Turkey or by making general accusations under the pretext that Greece and various circles in western nations have encountered a lapse in democracy will, before everything else, do nothing but put a mortgage on the future of relations between Turkey and Greece. One fact must not be forgotten. The Turkish people are aware that the period begun 12 September is temporary. Turkey's national rights are permanent. No concessions will ever be made on issues related to national rights.

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ACADEMIC REVIEWS CURRENT LEGAL STATUS OF AEGEAN

Istanbul CUMHURİYET in Turkish 15 Oct 81 p 9

[Article by Dr Tuncer Guvenc, assistant professor at the Aegean University Institute of Marine Sciences and Technology]

[Text] A proposal based on the Fourcade report and approved by the European parliament in September carries with it the implication that the Aegean Sea will be able to be brought to the state of a Greek lake. Greece's efforts to increase its territorial waters to 12 miles, which Turkey will never accept in any manner whatsoever, convey with them an impact on a number of questions concerning such topics as Turkey's transit rights, its continental shelf, and its air space in the Aegean Sea.

This decision will not be valid from Turkey's point of view. However, as a result of Greece's policy of dragging bilateral problems in the Aegean Sea to international platforms, it should be expected that the topic will be brought before the Court of Justice or the Court of Arbitration in the days ahead. If Greece's territorial waters are increased to 12 miles, Greece's water in the Aegean will be increased by 63 percent, from 60,000 square kilometers to 110,000 square kilometers.

The views of the two parties and developments in the Aegean Sea can be summarized as follows:

Greece wants to gain possession of the entire Aegean continental shelf by saying that the Greek islands possess a continental shelf. It is trying to solve the problem of the continental shelf in this manner, by constantly threatening to increase its territorial waters to 12 miles. If the Greek hypothesis is accepted, the 12-mile limit on territorial waters will solve the problem of the continental shelf better than a continental shelf agreement will. (Continental-shelf rights refer to the floor and subsurface of the floor of the sea while a country has total sovereignty over territorial waters.) Furthermore, as for islands' possessing a continental shelf, areas outside the 12-mile limit would be accounted for as they would be part of Greece's continental shelf.

If the EEC's 50-mile fishing rights limit is applied as well, the Aegean will certainly become a Greek lake.

In this way, the floor of the Aegean Sea, the floor's subsurface, the water below, the surface of the water, and the air space above will all be in the control of Greece and under its sovereignty.

In contrast, Turkey's wishes are based on the principles that the Aegean is a shared sea and that it is necessary for both nations to benefit jointly. Common interests in a common sea require that the two nations reach agreements together through bilateral accords that will serve regional and world peace. Turkey did not engage in unilateral efforts until it was strongly forced to do so. (After 12 years of remaining silent, it has begun the Candarli research.) Every gesture made toward reaching a solution is based on good intentions even though each is taken as a concession. Success in the Court of Justice was even greeted as a simple piece of news. Gestures such as rescinding Notice to Airmen No 714, which was not reciprocal, not vetoing Greece's entry into NATO, and not creating a problem about the rearmament of Aegean islands that were disarmed and over which Greece's sovereign rights were restricted in accordance with the 1923 Lausanne and 1946 Paris agreements have always been accepted by Greeks as concessions.

The current 6-mile limit on territorial waters is the outer limit Turkey will approve. Increasing Greece's territorial waters would be an action that would strangle Turkey, which has continuously announced that it will not accept this in any form whatsoever.

On the issue of the continental shelf, Turkey wishes to benefit equally and jointly from bilateral agreements that draw a line based on the principle of natural extension in the Aegean. There will, of course, be debate on the line of natural extension, but the Aegean is a unique, semiclosed sea, and no other sea has as many special characteristics. Because no rule (such as those dealing with territorial waters, the continental shelf, or economic region) can be fully applied in this region, solutions here will have to be special ones that conform with the special conditions.

Turkey has a strategic need to defend a newly defined air space and new FIR [Flight Information Region] air corridors. It is imperative that flight control over the Aegean be handled jointly.

What Does EEC Want?

What are the EEC's views on Greece's hypothesis about the Aegean?

Official information regarding Turkish-Greek negotiations has been provided to the EEC by the Greek side, and an EEC report dated 1978 that was prepared was based primarily on such information.

The United Nations Law of the Sea Conference and the Court of Justice approve basing the objective division of the continental shelf on the structure of the floor of the sea.

The report that was accepted by the EEC included absolutely no information or indication that the continental shelf would be defined as the natural extension of a country and divided in accordance with an agreement reached by the two nations or that an island's continental shelf would be restricted by the law of nations.

The report, which gives a detailed examination of the Aegean's continental shelf, states that the shape of the mouth of the river at the Thrace border prevents the principle of equal distance from being applied and that a common line does not clash with the boundary of both continental shelves.

Furthermore, Greece's desire for the entire Aegean continental shelf is made known in the report through the archipelagic concept of Greece, which claims that the Greek peninsula and the islands rest on the same foundation. The report says that Greece looks upon this as a legal problem and is working to get Turkey to sign a joint petition indicating its willingness to take the question before the Court of Justice.

In the report, the EEC clearly defines "continental shelf" and states the extent of the islands' continental shelf and of the Greek thesis.

The September 1981 decision of the European parliament asserts that:

1. Greece is an archipelagic nation.
2. All the islands in the Aegean have a continental shelf.
3. Greece has the right to increase its territorial waters in the Aegean to 12 miles.

These items were approved on the basis of the Fourcade report. Now, this decision will be submitted to the EEC Council of Ministers.

Since Greece, in fact, knew in January 1978 the views of the EEC, why did it want such a report approved after it became a member? The EEC countries and the EEC followed the United Nations Law of the Sea Conference. And they know at least as well as any country does the Law of the Sea that was developed there. Furthermore, both Ms. Fourcade and her team and all the members of the parliament are well aware of France's claims and the arbitration court's decisions regarding the islands (the Anglo-Normand Islands) that are under the sovereignty of England and that lie on France's continental shelf between England and France.

In short, in the Fourcade report submitted to the European parliament, a Greek hypothesis that is completely opposed to the concept of an

archipelagic nation (which is not included in the law of nations, but is included in the text of the United Nations Law of the Sea Conference agreement) is accepted.

By saying that all of the Aegean islands have a continental shelf, the report:

1. Contradicts the arbitration court decisions between England and France; the agreements between Australia, New Guinea, and Papua; and even the agreements in the Karayip Sea.
2. Reaches a conclusion opposing the distinction made between islands at the United Nations Law of the Sea Conference.
3. And, furthermore, jumps into a situation of enacting law through a decision that will frustrate a number of issues that are in the process of being decided, such as those between Sweden and the USSR (Gotland); Norway and the USSR (Svalbard); and France and Canada (St. Pierre and Miquelon).

By acknowledging Greece the right to increase the territorial waters of its islands in the Aegean from 6 miles to 12 miles, the report has made an effort to lead Turkish-Greek problems into an impasse.

First of all, Greece has never wanted to solve Turkish-Greek problems through bilateral, sensible negotiations. It has become traditional for Greece to transfer problems over to the third party it deems appropriate at the time. It is expected that, following this action in the EEC, Greece will make an effort to take the question to the Court of Justice or to an arbitration court. This is preelection time in Greece, and there is a chance that the Karamanlis government will lose in the election or will emerge greatly weakened by the elections. Whereas Karamanlis entered the EEC in order to protect a rightist, liberal government and democracy, he entered NATO in accordance with Haig's plan, acknowledging that Greece is surrounded by Albania, Yugoslavia, and Bulgaria and that close cooperation with France is inadequate. In this situation, Karamanlis prodded the deputies to take action, informing them of the need to win a victory abroad prior to the elections and the need for the EEC to give evidence of aid to Greece. However, this reason is merely related to timing.

The second and probably most important reason is the discord between Libya and the United States. It is necessary to look at the effect the Libya-United States' disagreement has on the Aegean topic without going into a debate on who is right and who is wrong.

The United States' navy conducted maneuvers in Libya's gulf, an area that falls within Libya's sovereignty, and an air battle took place between the two nations. The United States said that territorial waters of more than 3 miles cannot be accepted. As is known, the United States had reported in 1981 that it would discuss once again the text of the agreement reached at the United Nations Law of the Sea Conference.

Turkey has clearly announced that it will not accept any increase whatsoever in territorial waters in the Aegean and has informed both friend and foe that this would be a reason for a clash.

Furthermore, Turkey does not acknowledge Greece's claim to 10 miles of air space and goes by the practice of acknowledging 6 miles' distance as international air space.

Now, Greece stands alone in its position to increase both its air space and territorial waters beyond 6 miles. The United States' position on this subject is clear. NATO does not have the opportunity to differ basically on this issue. The EEC is seen as the only organ able to support Greece. In such a situation, Greece cannot be found on the same side as the USSR, Israel, or even Libya. The EEC could only side with Greece indirectly, through a parliamentary decision.

Furthermore, the EEC parliamentary decision can be interpreted as a position counter to the United States' policy at the 1981 Law of the Sea Conference and in the Mediterranean.

While the text of an agreement is being drafted at the final stage of the United Nations Law of the Sea Conference, this decision was taken. It also came during a period in which disputes of the United States' side are being transformed into armed battle. In addition, decisions that are being made are such that strike a blow at Turkey's vital problems and have been made by the parliament of the community that Turkey wishes to join as a full member. It may be true that such a decision will not paralyze us, but can anyone say that it will not affect us? Isn't one of the reasons why a ministry has been established and two ambassadors have been appointed to prevent such decisions, even though they are unimportant and will not frustrate us, from being made?

The distribution of the Aegean with territorial waters of 6 miles is as follows:

Turkish territorial waters, 8.3 percent or 15,210 square kilometers.

Greek territorial waters, 35 percent or 60,244 square kilometers.

International waters, 56.2 percent or 95,586 square kilometers.

The distribution of the Aegean with territorial waters of 12 miles gives the probability of:

Turkish territorial waters, a 10-percent increase of 2,032 square kilometers for a total of 17,240 square kilometers.

Greek territorial waters a 63.9-percent increase of 49,783 square kilometers for a total of 110,030 square kilometers.

International waters, a 26-percent reduction of 50,815 square kilometers for a total of 44,500 square kilometers.

If the Greek islands in the Aegean are accepted as being an archipelago, Turkish territorial waters, using the 6-mile limit, will amount to 8.8 percent or 15,210 square kilometers.

And, with the 12-mile limit, 9.2 percent or 15,864 square kilometers. Greek territorial waters and archipelago seas, using the 6-mile limit, 78 percent or 134,400 square kilometers. Using the 12-mile limit, 83 percent or 143,000 square kilometers. The remaining continental shelf to be divided would consist of 8.8 percent or 15,210 square kilometers.

If all of this happens to Turkey, Greece will have made the Aegean a completely Greek lake.

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RECENT AEGEAN RESOLUTIONS EXACERBATE PROBLEMS WITH GREECE

Istanbul CUMHURIYET in Turkish 22 Sep 81 pp 1, 9

[Text] Ankara (CUMHURIYET BUREAU) -- The Aegean Sea, linking Turkey and Greece and having nearly 13,000 islands both large and small, is one of the most unique seas in the world. And this unique quality brings with it a variety of problems between Turkey and Greece concerning sovereignty over it.

The Fourcad Report adopted by the European Parliament and the new EEC Commission bill on customs unity have, perforce, brought to the agenda disagreements between Turkey and Greece over the Aegean.

The Fourcad Report envisages Greece's setting its territorial waters in the Aegean at 12 miles, thus strengthening Greece's original 12-mile claim. Turkey and Greece now have 6-mile territorial waters limits in the Aegean. However, although it is not putting it into practice, Greece says that it is holding its 12-mile claim in reserve.

Though international law recognizes the 12-mile limit as applied to oceans, the same standards cannot apply to the Aegean, considering the special circumstances of semi-enclosed seas. Considering also that the islands in the Aegean extend almost to the continental rise of Anatolia, this special situation becomes even more pronounced.

Greece's extending its territorial waters to 12 miles does not stop at blocking Turkey's access to international waters in the Aegean, but also cuts off its passage to the Mediterranean via the Dardanelles. This would not only interdict Turkey's security, but would affect it economically as well.

Calculations show that under the current 6-mile practice, Greece has sovereignty over 35 percent of the Aegean Sea. Turkey's territorial waters, however, include 8.8 percent of the Aegean. The rest is international waters. As it is, the narrowness of certain corridors allowing access to international waters from Turkish waters can create a variety of hindrances to transportation.

What would happen in practice if Greece extended its territorial waters to 12 miles? As islands are also subject to the territorial waters regime and since the Greek islands right next door to Turkey would extend their territorial waters also, the entire corridor allowing access to international waters in the Aegean would close. In this situation, access to the Mediterranean would be via Greek

territorial waters alone. To transit Turkish territorial waters, ships would have to follow the ragged Turkish coastline. While the 6-mile limit allows Greece to occupy 35 percent of the Aegean, the 12-mile limit would raise this figure to 63.9 percent. The increase in Turkish territorial waters would be 1.2 percent, in which case Turkey's part of the Aegean would be only 10 percent. The area of international waters, meanwhile, would drop from 65 percent to 26.1 percent. In practice, any ship departing a Turkish port would have to transit Greek waters to reach the Mediterranean.

The territorial waters problem began over the oil exploration areas that Turkey announced in 1973 for the TPAO [Turkish Petroleum Corporation] and came up again later along with the continental shelf problem associated with the exploration by the ships Sismik-1 and Candarli. Turkey's official position may be summarized as follows:

"The international rules governing other seas do not apply in the Aegean because of its semienclosed nature. Even with existing practice, passage from Turkish waters to international waters is allowed only by three small corridors. If Greece extends its territorial waters to 12 miles, it will cut off all access from Turkish waters to international waters. In this situation, the areas in which the TPAO has exploration permits will drop from 16.3 percent to 9.27 percent.

"Turkey has to consider its large population living on the western shores of Western Anatolia and on the main continent and, as it is its continental shelf, demands equal rights of passage through it in the Aegean."

The nation state has the same full rights of sovereignty over its territorial waters as it does over its land territory. However, the right of innocent passage in peacetime is usually granted for both mercantile ships and war ships. In wartime, however, the nation state may invoke various powers concerning right of passage for purposes of its security and may close its territorial waters if necessary.

An interesting point strategically is that if Greece extended its territorial waters to 12 miles, it would be a favorable development for NATO defense in that NATO would have full oversight of Soviet ships coming down to the Mediterranean.

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